

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FRANK M. PECK,
Petitioner,
v.
BRIAN WILLIAMS, et al.,
Respondents.

Case No. 2:17-cv-01620-JAD-VCF

**Order Appointing Counsel, Granting
Leave to File Petition,
and Denying Remaining Motions
Without Prejudice**

[ECF Nos. 19, 20, 23, 25, 26, 27, 34]

Frank M. Peck brings this Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 to challenge his 2009 Nevada State Court conviction for sexual assault.¹ Peck has filed numerous motions that are currently pending. After the court directed Peck to file an amended petition,² he moved for leave to file an enlarged petition, attaching his first amended petition. I grant his motion and direct the Clerk of Court to file Peck's First Amended Petition.³

Peck has also filed a motion asking for accommodations under the Americans with Disabilities Act,⁴ in which he alleges that he writes in pain because of the condition of his hand. He asks the court to order the prison to allow him to use a flash drive, a typewriter, or a word processor to generate his legal documents. Instead, having reviewed the claims in the petition, and having considered the possibility that petitioner might need to conduct discovery, I find that the interests of justice are best served by appointing counsel to represent Peck in this writ proceeding.⁵ So, I provisionally appoint the Federal Public Defender to represent Peck.

¹ ECF No. 1-1.

² ECF No. 18.

³ ECF No. 19-1.

⁴ 42 U.S.C. § 12101, *et seq.*

⁵ 18 U.S.C. § 3006A(a)(2)(B).

1 Because counsel will be in a better position to evaluate what additional relief is needed or
2 procedural steps should be taken at this time, I deny all of Peck's remaining motions without
3 prejudice to counsel's ability to seek the same relief should it be warranted. And because Peck
4 will be represented by counsel from this point forward, I instruct Mr. Peck that he may no longer
5 file documents on his own in a pro se capacity. Local Rule IA 11-6(a) requires that all future
6 filings on behalf of Peck must now be made by appointed counsel.

7 **IT IS THEREFORE ORDERED** that petitioner's motion for leave to file an enlarged
8 petition **[ECF No. 19]** is **GRANTED**; the Clerk of Court is directed to **FILE the First Amended**
9 **Petition** **[ECF No. 19-1]**.

10 **IT IS FURTHER ORDERED** that **the Federal Public Defender is provisionally appointed** to represent the petitioner. The Federal Public Defender has until April 22, 2019, to
11 undertake direct representation of the petitioner or indicate to the court his inability to represent
12 petitioner in these proceedings. If the Federal Public Defender undertakes representation of
13 petitioner, he will then have 60 days to file an amended petition for a writ of habeas corpus, if
14 desired. If the Federal Public Defender is unable to represent the petitioner, then the court will
15 appoint alternate counsel. Neither these deadlines nor any extension of them signifies or will
16 signify any implied finding of a basis for tolling. Petitioner always remains responsible for
17 calculating the running of the federal limitation period under 28 U.S.C. § 2244(d)(1) and timely
18 asserting claims.

19 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to **ADD Aaron Ford,**
20 **Attorney General for the State of Nevada, as counsel for respondents.**

21 **IT IS FURTHER ORDERED** that **respondents' counsel has until April 11, 2019, to enter a notice of appearance**, but no further response will be required from respondents until
22 further order of the court.

23 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to
24 **ELECTRONICALLY SERVE both the Attorney General of the State of Nevada and the**
25 **Federal Public Defender with a copy of the first amended petition [ECF No. 19-1] and a**
26 **copy of this order.**

1 IT IS FURTHER ORDERED that, notwithstanding Local Rule LR IC 2-2(g), no paper
2 copies of electronically filed exhibits should be provided to chambers or to the staff attorney
3 unless later directed by the Court.

4 IT IS FURTHER ORDERED that ALL OTHER MOTIONS [ECF Nos. 20, 23, 25, 26,
5 **27, and 34**] are DENIED without prejudice.

6 DATED: March 21, 2019

7 
8 JENNIFER A. DORSEY
9 United States District Judge

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